

CALIFORNIA COASTAL COMMISSION

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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-03-033

APPLICANT: Santa Barbara County Parks Department

PROJECT LOCATION: Rancho Guadalupe Dunes County Park, Santa Barbara County

PROJECT DESCRIPTION: The applicant proposes to demolish the original 50-space 27,314 sq. ft. public parking lot established in the 1960s and construct a new 49-space, 30,400 sq. ft. public parking lot approximately 160 feet further inland in the same general vicinity of the existing parking lot, requiring approximately 10,000 cu. yds of grading (5,000 cu. yds. cut, 5,000 cu. yds. fill). The project includes an approximately 242 sq. ft. vault-type public restroom, five picnic tables, one bench, a trash enclosure, interpretive and instructional signage, native landscaping, dune creation area, and a beach access ramp to convey public access from the parking lot to the beach along a restricted corridor. A low, wood rail fence would surround the new parking lot and associated picnic area. The picnic area would contain tables and structures to shelter visitors from wind. As proposed, a trial equestrian program would be implemented for an initial five-month period, during the first non-nesting season between October 1 and March 1.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve, with conditions, the proposed parking lot reconstruction and amenities at Rancho Guadalupe Dunes County Park. The Park represents the only public access for miles around, the loss of which would significantly impair the public's ability to access the coast. The relocated parking lot would be located approximately 160 feet further inland to the south and west to avoid hazards associated with storm wave damage.

Staff recommends **approval** of the proposed project with special conditions regarding: (1) assumption of risk / no future shoreline protection, (2) construction timing, (3) removal of excess graded material, (4) signage program, (5) sensitive species surveys and construction monitoring, (6) non-point source pollution control, and (7) and revised plans including reduction of the project footprint and elimination of the trial equestrian program. The proposed project, as conditioned, will allow for the continued use of the area for public access and in a manner that will not significantly disrupt habitat values, and on balance is the most protective of resources. The motion and resolution to approve the project, as conditioned, is found on page 3.

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EXHIBITS

Exhibit 1.	Vicinity Map
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SUBSTANTIVE FILE DOCUMENTS: Biological Opinion for Rancho Guadalupe Dunes County Park Parking Lot Relocation and Trial Equestrian Program (U.S. Fish and Wildlife Services, January 12, 2004); Plan Review, Rancho Guadalupe Dunes County Park, Plans Dated August 31, 2003 (Skelly Engineering, January 7, 2004); Biological Assessment Rancho Guadalupe Dunes Parking Lot Relocation (Federal Emergency Management Agency, July 8, 2003); Habitat Conservation Plan for Rancho Guadalupe Dunes County Park, Santa Barbara County (Levine-Fricke Inc., March 2003); Phase I Archaeological Resources Report (Stone Archaeological Consulting, December 2003); Letter Report Concerning Shore Protection at the Proposed New Parking Lot at Guadalupe Dunes (Skelly Engineering, August 31, 2001); Western Snowy Plover (*Charadrius alexandrinus nivosus*) Pacific Coast Population Draft Recover Plan (USFWS 2001); Letter Report Summarizing the Inspection of Shore Protection and Site Conditions at Rancho Guadalupe Dunes Park (Skelly Engineering, 2/23/2000);

Percolation Testing Rancho Guadalupe Dunes (GeoSolutions Inc., August 23, 2000); Rancho Guadalupe Dunes County Park Final Master Plan (Santa Barbara County Parks, The Nature Conservancy, Moffatt & Nichol, March 1999); Guadalupe-Nipomo Dunes Preserve Management Program (The Nature Conservancy, Coastal Conservancy, & Crawford, Multari, Clark & Mohr, April 1999); Survey for Sensitive Biological Resources at Rancho Guadalupe Dunes County Park (September 1998); Planning and Development Department Guadalupe Dunes Park Master Plan 98-PW-001 Initial Study Final Negative Declaration (Santa Barbara County Parks, no date); Shore Protection Replacement at Rancho Guadalupe Dunes County Park (Moffatt & Nichol Engineers, August 25, 1998);

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit 4-03-033 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be

pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Assumption of Risk/No Future Shoreline Protection

A. By acceptance of this permit, the applicant acknowledges and agrees to the following:

- (a) The applicant acknowledges and agrees that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, flooding, and wildfire.
- (b) The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
- (c) The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
- (d) The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- (e) No shoreline protective device shall be constructed, now or in the future, for the purpose of protecting the development approved pursuant to coastal development permit 4-03-033 including, but not limited to, the restroom, beach access ramp, picnic improvements, or the parking lot in the event that these structures are threatened with imminent damage or destruction from waves, erosion, storm conditions, flooding from the Santa Maria River, or other natural hazards in the future and by acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

B. Prior to issuance of the coastal development permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director,

incorporating all of the above terms of this condition. This written agreement shall not be modified without a Commission amendment to this coastal development permit.

2. Construction Timing

All project construction, including installation of restroom and picnic facilities and demolition of existing parking lot, shall occur between October 1 and March 1, outside of the nesting season for snowy plover and California least tern. No exceptions shall be made.

3. Removal of Excess Material and Operational Responsibilities

It shall be the applicant's responsibility to assure that the following occurs during project operations: (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion; and (b) Any and all debris resulting from construction activities shall be removed from the beach on a daily basis.

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material and debris from the project site, including the parking lot debris. The existing parking lot shall be removed and restored within six (6) months of the completion of the proposed parking lot. Excess graded materials and debris shall be deposited at an approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive such material.

4. Signage Program

Prior to the installation of the proposed interpretive and instructional signage on site, the applicant shall submit, for the review and approval of the Executive Director, plans showing the location within the reconfigured parking lot, size, design, and content of all signs to be installed.

5. Sensitive Species Surveys and Construction Monitoring

- A. The applicant shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director to serve as the biological monitor. The applicant shall provide the biological monitor's qualifications for the review and approval of the Executive Director at least two (2) weeks prior to commencement of project activities. The biological monitor shall conduct a survey of the project site (including all areas where the demolition and construction is proposed and immediately adjacent areas), to determine presence and behavior of sensitive species, one day prior to any excavation, construction, reconstruction, demolition, or any grading and recontouring activities. In the event that any sensitive wildlife species (including but not limited to western snowy plover and California least tern) exhibit reproductive or nesting behavior, no work shall proceed. In such event, the biological monitor shall direct the applicant to cease work or not to commence work, and shall immediately notify the Executive

Director and local resource agencies. Project activities shall begin or resume only upon written approval of the Executive Director.

- B. The biological monitor shall be present during excavation, construction, reconstruction, demolition, or any grading and recontouring activities. The applicant shall cease work should any sensitive species be identified in the project area, if a breach in permit compliance occurs, if work outside the scope of the permit occurs, or if any unforeseen sensitive habitat issues arise. In such event, the biological monitor(s) shall direct the applicant to cease work and shall immediately notify the Executive Director. Project activities shall resume only upon written approval of the Executive Director. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

6. Non-point Source Pollution Control

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, two (2) sets of drainage plans that clearly identify all permanent measures to be taken to control and direct all site runoff. Such plans shall at a minimum provide for the following:

1. The drainage system shall be designed to filter and/or treat the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;
2. Runoff from areas subject to automobile use shall be filtered by an engineered filtration system, or equivalent Best Management Practices, specifically designed to remove vehicular contaminants (such as petroleum hydrocarbons, heavy metals, and other particulates);
3. All parking lot areas, driveways, and other vehicular traffic areas on site shall be swept and/or vacuumed at regular intervals and at least once prior to October 15th of each year. Any oily spots shall be cleaned with appropriate absorbent materials. All debris, trash and soiled absorbent materials shall be disposed of in a proper manner. If wet cleanup of any of these areas is absolutely necessary, all debris shall first be removed by sweeping and/or vacuuming, all storm drains inlets shall be sealed, and wash water pumped to a holding tank to be disposed of properly and/or into a sanitary sewer system;
4. Any drainage system elements shall be permanently operated and maintained. At a minimum:
 - (a) All traps/separators and/or filters shall be inspected to determine if they need to be cleaned out or repaired at the following minimum frequencies:
 - (1) prior to October 15th each year; (2) prior to April 15th each year; and
 - (3) during each month that it rains between November 1st and April 1st. Clean-out and repairs (if necessary) shall be done as part of these

inspections. At a minimum, all traps/separators and/or filters must be cleaned prior to the onset of the storm season, no later than October 15th of each year;

- (b) Debris and other water pollutants removed from filter device(s) during clean-out shall be contained and disposed of in a proper manner.
5. All trash enclosures and receptacles shall be covered and/or sealed to prevent off-site transport of trash.

It is the Permittee's responsibility to maintain the drainage system in a structurally sound manner and its approved state. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved permanent drainage plan shall be reported to the Executive Director. No changes to the approved permanent drainage plan shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. Revised Project and Project Plans

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. The revised final project plans and project description shall reflect the following:

1. Reduce the total impervious surfaces of the proposed project, including concrete sidewalks, concrete pad, and asphalt parking area, to approximately 27,314 sq. ft, the size of the original existing parking lot. The revised parking lot configuration shall remain entirely within the boundaries of the existing proposed development footprint.
2. Delete horse trailer parking spaces on project plans.
3. Prohibit horses and dogs year around within Park boundaries.
4. Delete the sand rinse shower on project plans.

The development and operation of the Park shall be in compliance with the approved revised plans and all of the above provisions.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

Project Location & Setting

The project site is located at Rancho Guadalupe Dunes County Park, in the northwest corner of Santa Barbara County, immediately south of the Santa Maria River, approximately 4 miles west of Guadalupe (Exhibit 1). The project site is located in an area of retained jurisdiction by the Coastal Commission as shown on the Point Sal LCP Certification Permit and Appeal Jurisdiction map. The nearest adjacent upcoast and

downcoast public access is Oso Flaco Lake approximately 5 miles upcoast and Point Sal approximately 4 miles downcoast.

Site History & Condition

The present park configuration consists of approximately 592 acres, and was established in 1987 when California State Coastal Conservancy and the Nature Conservancy (TNC) purchased land to create the park. TNC and the County of Santa Barbara entered into an agreement for the County to acquire the property from the TNC in 1989, and then leased it back to the TNC for its management. In 1999, TNC transferred its management obligations to the Center for Natural Lands Management (CNLM). Management of the Park is currently provided by CNLM through a lease agreement with the County of Santa Barbara.

The park was traditionally used for multiple passive and active recreation activities with off-road vehicles banned from the park in 1983. The Park receives an estimated 40,000 visitors per year. Principal usage of the Park is coastal access and passive beach recreation including fishing, surfing, sunbathing, picnicking, walking, and swimming. Motorized activities and equestrian uses are prohibited. Leashed dogs are allowed in the Park from October 1 through March 1 of each year, outside of the nesting season.

Facilities at Rancho Guadalupe Dunes County Park include entrance kiosk and an approximately 2-mile road that leads to an existing public parking lot. The existing parking lot currently provides parking for 50 cars. There are two existing port-a-potties and one trash receptacle located at this parking lot. Facilities are in poor condition and the County does not believe they are serving the public effectively.

Rancho Guadalupe Dunes Park includes former facilities of Thriftway Oil Company, located just west of the existing parking lot. This lease site is currently abandoned and ongoing remediation efforts are underway. This is under separate permit and not a part of this project. The applicant had previously identified an alternative for reconstruction of the parking lot and amenities in the area abandoned by Thriftway Oil Company. However, this alternative was eliminated due to presence of sump and the present proposed project was chosen to protect the lot from storm action and preclude the use of a seawall.

During the winter of 1998, El Nino storm events heavily damaged portions of the existing park infrastructure. The proposed project represents a replacement of this parking lot in a location setback further from the ocean, along with some additional low-cost visitor-serving amenities.

Project Description

The applicant proposes to demolish the original 27,314 sq. ft. public parking lot established in the 1960s and construct a 30,400 sq. ft. public parking lot approximately 160 feet further inland in the same general vicinity of the existing parking lot, requiring approximately 10,000 cu. yds of grading (5,000 cu. yds. cut, 5,000 cu. yds. fill). The proposed parking lot includes a total of 49 spaces: 39 traditional spaces, 4

handicapped, 5 horse-trailer, and 1 mobile exhibit space. The project includes an approximately 242 sq. ft. vault-type public restroom, five picnic tables, one bench, and a trash enclosure (Exhibits 2-5). A low, wood rail fence would surround the new parking lot and associated picnic area. The picnic area would contain tables and structures to shelter visitors from wind. The new parking lot would also include an enclosure for a covered, locking, trash bin.

The project includes interpretive and instructive signs throughout the parking area. A concrete pad for a mobile interpretive trailer would be located near the entrance of the new parking lot. During the spring, summer and fall, the interpretive trailer would be placed to serve as a visitor information kiosk and provide a vantage point for park staff to monitor the beach.

The project further includes native landscaping and a dune creation area. The area on the plans designated as a dune creation area, between the parking entrance and restroom, will be used as a sand depository for any sand build-up in the parking lot during routine maintenance of the parking lot.

Additionally, a beach access ramp would be constructed to convey public access from the parking lot to the beach along a restricted corridor. The access ramp will be comprised of two material types. The upper section will be constructed of concrete and the lower half will be provided by a removable matting system made from redwood slats. These mats are portable sections that come on a roll or a flat section that lays on top of the sand.

The project includes recontouring in order to provide opportunity for a new fore dune system to establish around the parking area. Recontouring consists of the creation or repair of typical natural occurring sand contours for a particular area. The formation of small hillocks and sand drifts on the ocean side of the parking lot will assist in capturing windblown sand and will build up a new dune line over time.

In addition to the parking lot, approximately 7,345 sq. ft. of additional impervious surface is attributed to the concrete sidewalk and beach access ramp. Parking lot drainage will be directed to and filtered by a vegetated basin prior to outlet into the dunes. The proposed public parking lot site is open sand, foredune habitat. No native plants would be removed or impacted as a result of this project.

The County is also proposing a trial equestrian program. Equestrian use within the park is currently prohibited. However, the proposed project includes equestrian parking and limited use. As proposed, the equestrian program would allow this type of use on a trial basis to evaluate its compatibility with the natural resources and other park visitors. The trial use would be monitored by park personnel, the Equestrian Task Force¹, and the USFWS. Equestrians would be limited to the fenced walkway to the beach, the tidal

¹ The Task Force is a group of volunteers with biological, equestrian, public, and land manager interests assigned to evaluate the impacts of horses on the beach.

beach zone south of the Santa Maria River, and during non-breeding season for the terns and plovers. The remainder of the park would not be open to equestrian use.

As proposed, the trial equestrian program would be implemented for an initial five-month period, during the first non-nesting season between October 1 and March 1. A maximum of ten horses would be permitted within the Park at any given time. Signage, information packets, and maps, as appropriate, would be utilized to inform equestrian users of Park boundaries and allowable riding areas. Horses must be under control at all times. Horse back riding would be confined to areas south and west of the fenced corridor leading to and from the parking lot in the beach strand area, avoiding disturbance of the Santa Maria River mouth and estuary.

The success of the equestrian program would be evaluated according to the following criteria:

- Impacts to native and non-native vegetation, data to be collected qualitatively by walking within the allowed riding area, and surveying vegetation. The designated riding area, however, is unvegetated coastal strand.
- Impacts to protected wildlife species.
- Effects of equestrian use on other park visitors.
- Equestrian users responsibility in cleaning up horse manure in the parking lot and staging area, and in the established corridor from the parking area to the beach strand.
- Equestrian users remaining within the permitted riding area. The approved riding area is intended to include only the area south and west of the outlet of the fenced corridor leading to and from the parking area. The equestrian monitor shall observe riding activities and report any occurrences of equestrian use outside of the designated area.

Evaluations will be made two-months and five-months after initiation of the trial program. Evaluations shall include reports by Center for Natural Lands Management staff, equestrian users, and Task Force personnel. The over-all success of the program will be evaluated after five months in a written report to assess the suitability of the program and to determine whether or not the equestrian program will be continued. Upon entry, the name, license plate, and phone number of the riders will be recorded by the kiosk attendant. A system of progressive warnings will be provided to the riders upon violations of the equestrian program. If the program is continued after the initial five-month period, monitoring will continue annually for a period of five years evaluating the same criteria listed above. At the end of the five years, County Parks and CNLM, in consultation with the USFWS, shall determine if the program should continue.

Construction of the project would require approximately 11 weeks and would occur during the non-breeding seasons of the western snowy plover and California least tern, between October 1, 2004 and March 1, 2005. Work would occur from 7 a.m. to 4 p.m. The Park would remain open during construction. Visitors would be directed to the existing parking lot and the construction area would be fenced to prevent visitors from

entering. Once the new parking lot is complete, the County would remove all asphalt, wood, concrete, fencing, trash bins and signs associated with the existing parking lot. The area would be restored to open beach.

Exhibit 2 shows some facilities that are not a part of this application. To ensure accuracy of implementation of the approved project description, **Special Condition Seven (7)** requires revised plans to eliminate the sand rinse shower and any reference to utility lines for lighting or water.

B. ENVIRONMENTALLY SENSITIVE HABITAT AREA (ESHA)

Coastal Act Section 30240 affords protection of environmentally sensitive habitat areas as follows:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Likewise, Coastal Act sections 30212 and 30214 are relevant to the protection of environmentally sensitive areas and, in this case, are applicable since this project proposes public access through coastal dunes. These sections state, in part:

Section 30212: (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: ...It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.

Section 30214: (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:...

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

Rancho Guadalupe Dunes County Park is located within the Mussel Rock dunes, a part of the 20,000-acre Guadalupe-Nipomo Dunes complex. The Guadalupe-Nipomo Dunes complex is the largest remaining dune system in California south of San Francisco. This dune complex stretches along eighteen miles of coastline, within San Luis Obispo and Santa Barbara Counties, with dunes extending inland two to five miles.

As described previously, the County is proposing to reconstruct a public access parking lot 160 feet landward of its present location and add public amenities including a restroom, picnic tables, and beach access ramp. No native plants would be removed or impacted as a result of this project.

The proposed project site is located between the foredunes and the highest reach of ordinary tides, an area that is important habitat for nesting snowy plovers and least terns, and the sand dune complex meets the Coastal Act definition of ESHA. The project site is designated critical habitat for the federally-threatened western snowy plover. Snowy plovers forage along the shoreline and nest in the foredunes. The actual development footprint was not observed to have nests present during the 2001 survey, although nesting birds occurred both north and south of the site and as close as about 50 feet.

In order to protect sensitive species and habitat, the County has identified a number of measures that would minimize effects of visitor usage of facilities. The County proposes to install split-rail fencing around the new parking lot and associated picnic area and designate a beach access corridor by installing a ramp and directive signage.

The new parking lot would also include an enclosure for a covered, locking, trash bin to discourage predators. The County would provide interpretive and instructive signs throughout the parking area to inform the public of the sensitive nature of dune habitat and presence of sensitive species. A concrete pad for a mobile interpretive trailer would be located near the entrance of the new parking lot. During the spring, summer and fall, the interpretive trailer would be placed to serve as a visitor information kiosk and provide a vantage point for park staff to monitor the beach. Additionally, the County proposes to limit the number of equestrian users to a maximum of 10 horses at any given time and equestrian use would be limited to the non-nesting season of the western snowy plover and California least tern. Further, the County proposes to prohibit all construction in the nesting season of the western snowy plover and California least tern, generally March to September.

USFWS Biological Opinion & Habitat Conservation Plan (HCP)

FEMA is funding the construction of the new parking lot, restroom, and public amenities, under its Public Assistance Program. Therefore, in accordance with Section 7(c) of the Endangered Species Act and the 1998 Memorandum of Understanding between FEMA and U.S. Fish and Wildlife Service, FEMA initiated a formal Section 7 consultation regarding the effects of the proposed action on federally listed species. Six federally-listed species potentially occur within the Park boundaries, including the endangered California least tern, endangered brown pelican, endangered tidewater goby, endangered La Graciosa thistle, threatened California red-legged frog, and threatened western snowy plover. However, only two of these species were reviewed under the Biological Opinion, California least terns and western snowy plover and its designated critical habitat. FEMA determined that construction of the new parking lot, removal of the existing parking lot, and the trial equestrian program will not affect the brown pelican because this species primarily uses the Park for roosting near the mouth of the Santa

Maria River. The brown pelican uses additional roosting habitat north and south of the parking lot; consequently, any disturbance of roosting brown pelicans in the project areas and by horses in the trial program would be discountable because of the large amount of available roosting habitat. The tidewater goby, La Graciosa thistle, and California red-legged frog occur within the floodplain of the Santa Maria River. Because project activities would occur on the beach, outside the floodplain of the river, FEMA determined that its proposed action would not affect these species.

The Biological Opinion stemming from the Section 7 consultation concluded that the “proposed project is not likely to jeopardize the continued existence of these species or adversely modify the critical habitat of the western snowy plover for the following reasons: (1) We do not expect any western snowy plovers or California least terns to be injured or killed during the trial equestrian program, construction of the new parking lot, or removal of the existing parking lot; (2) The breeding activities of the western snowy plovers and California least terns would not be affected by the trial equestrian program, construction of the new parking lot, or removal of the existing parking lot; and (3) The primary constituent elements of critical habitat for the western snowy plover would not be substantially affected by the trial equestrian program, construction of the new parking lot, or removal of the existing parking lot, throughout the majority of the 592 acre Park.”

In addition to the Section 7 consultation, the Parks Department submitted an application to the U.S. Fish and Wildlife Service (USFWS) for a Section 10(a) incidental take permit and submitted a Habitat Conservation Plan (HCP) for all ongoing and proposed actions at the park, including the relocation of the parking lot, future equestrian use, proposed scenic overlook, ongoing routine park maintenance, biological monitoring, and ongoing recreational uses at the Park. The County requested a Section 10(a) permit to include the following federally listed species in the permit: western snowy plover, California least tern, brown pelican, tidewater goby, California red-legged frog, and La Graciosa thistle. As described above, only potential California least tern and western snowy plover impacts were reviewed in the Section 7 consultation to determine potential new impacts as a result of the proposed relocated parking lot. The USFWS does not anticipate that the trial equestrian program, construction of the new parking lot, or removal of the existing parking lot will incidentally take any western snowy plovers or California least terns.

The HCP includes a description of the future and ongoing activities that would occur in the habitat of endangered species at the Park, and measures to minimize impacts and protect the species. The HCP is intended to provide a method by which the proposed project can be implemented without reducing the survival and recovery of federally protected wildlife species as well as sensitive plant populations known to occur or potentially occur on the Rancho Guadalupe Dunes County Park. Public use activities to be covered by the incidental take permit include surfing, fishing, horse back riding, walking dogs, jogging, wildlife viewing, picnicking, and any other passive activity associated with typical utilization of the Park that may result in incidental take of a listed species. The Parks Department is seeking a 15-year long permit. The USFWS is currently reviewing the application and the HCP. However, the Biological Opinion

concludes that the relocation of the parking lot should not result in incidental take for the reasons described above. Therefore the purpose of the subject permit, Section 10(a) approval is not necessary.

Dune Habitat

The significance of the natural resource values of the Guadalupe-Nipomo Dune Complex is well recognized. One of the most critical functions of the dune system is its role as habitat for very unique flora and fauna. These are species which are specifically adapted to the conditions and opportunities found in the dunes. Dune plants in particular play a special role by both stabilizing the dunes from the effects of wind erosion, and hosting rare fauna. However, as the natural dune system has been reduced and fragmented, the risk of extinction has increased for several species.

Several native plants may potentially occur within Rancho Guadalupe Dunes Park which are state or federally listed species as endangered or threatened, or are on sensitive species lists of the California Native Plant Society (CNPS). These include the La Graciosa Thistle (*Cirsium loncholepis*), Surf Thistle (*Cirsium rothophilum*), Beach Spectacle Pod (*Dithyrea maritime*), Dune Larkspur (*Delphinium parryi* spp. *blochmaniae*), Blochman's Leaf Daisy (*Erigeron blochmaniae*), Wedge-leaved Horkelia (*Horkelia cuneata* ssp. *sericea*), Crisp Monardella (*Monardella crispa*), San Luis Obispo Monardella (*Monardella frutescens*), Dunedelion (*Malacothrix incana*), Suffrutescent Wallflower (*Erysimum insulare* ssp. *suffrutescens*). La Graciosa thistle is a state and federally listed endangered species, and has been identified at the mouth of the Santa Maria River adjacent to the estuary. Surf thistle and beach spectacle pod are state-listed threatened species. The remaining species are identified as sensitive by the CNPS.

State or federally protected wildlife species occurring within the Park include the California least tern (*Sterna antillarum browni*) a federally and state listed endangered species, western snowy plover (*Charadrius alexandrinus nivosus*) a federally-threatened and state species of special concern, California brown pelican (*Pelecanus occidentalis californicus*) federally- and state-endangered species, California red-legged frog (*Rana aurora draytonii*) a federally listed threatened species, and Tidewater goby (*Eucyclogobius newberryi*) a federally-endangered and state species of special concern.

While the distribution of these dune plants and animals may appear sparse to the uninitiated, over time they can collectively be expected to utilize the entire available dune surface. This is because the dunes complex is a dynamic system. The dunes present a rather harsh and difficult growing environment, where the wind keeps shifting the shape of the ground, rainfall rapidly percolates out of reach, and, lacking a distinct topsoil horizon, nutrients are quickly exhausted. Thus, a plant like surf thistle may over a year or two use up the available moisture and nutrients at a particular site, and by means of wind-blown seed "move" to a neighboring area. In this simplified model, the original site remains a bare sand surface until life's necessities again accumulate at the original site—thereby allowing recolonization and repeating of the cycle. Therefore, the overall growing area ("habitat") needed over the long run is vastly larger than the area

occupied by the plants at any one “snapshot” in time. This also helps explain why the entire dune surface—not just the locations where the plants (and animals) are found in any one particular year—must be considered as ESHA.

California Least Tern

In 2001, biologists found 12 California least tern nests at the Park. The nests were located on the beach and in the foredunes, approximately 1,400 to 3,500 feet south of the existing parking lot. Eight nests hatched at least one chick, with a total of 14 chicks hatched at the Park. Six to eight chicks fledged. No least terns were found to nest in the 2003 Park surveys.

The California least tern (*Sterna antillarum browni*) are migratory shorebirds that spend the breeding season on beaches from central and southern California to Baja, Mexico. Winter areas for the U.S. breeding population are largely unknown but it is presumed that the birds spend their winters along the Pacific coast of Central America. Though the timing of migration varies, terns typically begin to arrive along the California coast in mid-April with the fall migration from breeding colonies starting as early as June and extending as late as mid-October. Least terns typically migrate in small, loose groups, feeding en route in shallow water near land and resting on sandbars, beaches, pilings, and docks. The least tern forages on small surface fish such as anchovies and topmelts, captured from nearshore waters, estuaries, and river mouths near the breeding colonies.

Least terns nest in loose colonies in areas relatively free from human or predatory disturbance. Courtship may take place away from the nest colony, on a beach or exposed tidal flat. They tend to be site faithful, with the majority of birds returning to the same nesting location in subsequent years. Courtship period is usually 2 to 3 weeks in April and May with first eggs in California appearing in approximately mid-May. The breeding season for least terns along the California coast extends from April through August. California least terns are ground-nesting birds which nest in barren to sparsely vegetated sites near water, usually in association with river mouths or estuaries. Nests are shallow depressions in sand, soil, or pebble and are lined with beach debris (e.g., pebbles, shell fragments, plant material). The eggs are small, oval-shaped eggs, beige to olive in color with spots or splotches medium brown to black. Eggs are hatched after about 25 days. The chicks are semiprecocial, walking shortly after hatching but with the parents feeding chicks occasionally for up to several weeks after fledging. Chicks leave nest at about 2 days of age, and fledge at approximately 20 days. The population of California least tern has experienced a decline due to the loss of suitable nesting habitat, which has been degraded by high levels of human disturbance along the beach as well as by the effects of urbanization of the shoreline.

As mentioned above, least terns are known to nest at the Park. As a result of the presence of least terns, the applicant proposes to undertake all project activities outside of the reproductive season of the California least tern, from April 15 through September 1. To ensure that the project activities are implemented consistent with this timeline thereby ensuring protection of this sensitive species, the Commission requires **Special**

Condition Two (2), to ensure that all construction, reconstruction, demolition, grading activities, and all other project activities occur between October 1 and March 1.

California least terns are not anticipated to be impacted by construction of the proposed public access improvements because they do not overwinter at the breeding sites. However, to ensure that the project does not impact any least terns that may arrive earlier than the recognized breeding season, **Special Condition Five (5)** requires a biological survey to be conducted prior to commencement of project activities to identify any reproductive behavior, and further requires a biological monitor to be present during the excavation, construction, reconstruction, demolition, or any grading and recontouring activities. If the surveyor or monitor find that any least tern is exhibiting reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Work shall not re-commence except upon written approval of the Executive Director.

Western Snowy Plover

The project area has been identified as federally designated critical habitat of the western snowy plover. During the 2001 breeding season, biologists estimated that between 54 and 62 western snowy plovers were breeding at the Park. Biologists found 75 nests, including 9 just outside the Park boundary. Of the 70 nests with a known fate, 25 hatched at least one chick and 45 failed. Predators destroyed 15 nests, wind destroyed one nest, and four nests were abandoned. Biologists were unable to determine what caused 25 nests to fail in 2001. During 2003, 105 nests were located in the Park. Fourteen nests hatched, 64 nests were destroyed by predators, 5 nests were lost to wind, 5 nests were abandoned, 2 nests were destroyed by cattle, 10 nests were destroyed by unknown causes, and the fate of five nests were unknown. Common ravens were the primary documented predator, responsible for destroying 16 nests.

The Pacific Coast population of western snowy plover (*Charadrius alexandrinus nivosus*) are small, sand colored shorebird that uses sandy beaches for nesting and roosting from southern Washington to Baja California. The snowy plover forages on invertebrates in the wet sand; amongst surf-cast kelp; on dry sandy areas above the high tide; on salt pans; on spoil sites; and along the edges of salt marshes, salt ponds, and lagoons (USFWS 20001). Plovers breed primarily above the high tideline on coastal beaches, sand spits, dune-backed beaches, sparsely-vegetated dunes, beaches at creek and river mouths, and salt pans at lagoons and estuaries. They tend to be site faithful, with the majority of birds returning to the same nesting location in subsequent years (USFWS 2001 citing Warriner et al. 1986). The breeding season for snowy plovers along the Pacific coast extends from early March to mid-September. The majority of California's wintering plovers roost and forage in loose flocks on sand spits and dune-backed beaches, with some occurring on urban and bluff-backed beaches, which are rarely used for nesting (USFWS 2001). Roosting plovers usually sit in small depressions in the sand, or in the lee of kelp, other debris, or small dunes (USFWS 2001 citing Page et al 1995).

The snowy plover was listed by the U.S. Fish and Wildlife Service (USFWS) as a threatened species in March 1993. Subsequently USFWS designated 180 miles of coastline in California, Oregon, and Washington as critical habitat in 1999. Critical habitat is a specific designation that identifies areas that are essential to conservation of an endangered species. The USFWS has released a *Draft Recovery Plan for the Pacific Coast Population of Western Snowy Plover* (May 2001). The entire coastline of the Park is within designated critical habitat as part of the Pismo Beach/Nipomo Dunes Recovery Unit, spanning 11.5 miles. Within the Recovery Unit, the plan reports the presence of approximately 123-246 adult breeding birds and approximately 173-314 wintering birds.

As mentioned above, western snowy plovers are known to nest at the Park, and most of the Park is suitable breeding habitat for plovers. In order to ensure that excavation, construction, demolition, or other project activities do not adversely affect the breeding and/or nesting western snowy plovers, **Special Condition Five (5)** requires a qualified resource specialist to examine the project area immediately prior to any excavation, construction, reconstruction, demolition, or any grading and recontouring activities. If any breeding or nesting activities of the western snowy plover are observed, the environmental resource specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. Timing of operations are restricted, pursuant to **Special Condition Two (2)**, which restricts all project construction to occur between October 1 and March 1, outside of the nesting season for snowy plover.

The proposed relocation of the parking lot is not expected to directly impact the snowy plover once it is in place. However, construction and demolition activities have the potential to adversely impact wintering snowy plovers. Construction is anticipated to take approximately eleven weeks. The construction-related project activities potentially impacting wintering plovers consist of the disturbances associated with construction, reconstruction, demolition, and grading and recontouring of the dunes. However, as discussed below, sufficient additional resting and feeding areas are abundant in the vicinity and the potential for the project to impact plovers is minimal due to the temporary nature of project disturbance and the species' ability to tolerate 'occasional' human activities.

Potential impacts to wintering plovers as a result of construction-related project activities constitute a temporary disturbance to plovers. The USFWS recognizes that the species' is tolerant of occasional human disturbance (CDP 4-01-143, Port District, USFWS, pers. comm. 1/25/02). These types of project activities are temporary and occasional since they represent a finite set of activities. The level of physiological stress to plovers from the aforementioned project activities is not expected to contribute to a loss of energy that would adversely impact reproduction or survivorship, as would be anticipated from repeated disturbances. In addition, there is a large area of similar dune habitat both up- and downcoast which is suitable to accommodate temporary displacement of overwintering birds during the construction activities.

In order to minimize impacts to wintering, as well as breeding and nesting, activities and to ensure that excavation, construction, demolition, or other project activities do not adversely affect the western snowy plovers, **Special Condition Five (5)** requires a qualified resource specialist to examine the project area immediately prior to any excavation, construction, reconstruction, demolition, or any grading and recontouring activities, to identify the presence of snowy plovers in order to preclude potential adverse impacts to them. As a result, the resource specialist shall ensure that prior to any excavation, construction, reconstruction, demolition, or any grading and recontouring activities, there are no western snowy plovers in the project area or its vicinity. The monitor shall ensure that project activities do not commence until plovers have left the project area or its vicinity.

In addition to construction-related disturbances, the population of *wintering* snowy plover may be subject to an array of disturbances from humans, dogs, crows, and other birds between October 1 and March 1. Because the project includes new equestrian use of the Park, the wintering population would also be subject to potential disturbance by horses. Generally, these disturbances do not result in the mortality of wintering birds, however, disturbances do interfere with the birds' overall ability to forage or rest. Disturbance, as used in this report, refers to any activity that causes a bird to move or fly. In particular, dogs can serve as a significant source of disturbance to snowy plovers. Dogs may disturb snowy plovers by their proximity, which Lafferty (2001b) found to have a higher probability of disturbing plovers than humans, at any particular distance. In addition, some dogs may directly disturb plovers by actively chasing them. Leashed dogs are allowed in the Park from October 1 through March 1 of each year, outside of the nesting season. However, given the extent and topography of the Park property and lack of personnel to patrol such a large area, staff notes that enforcement of leashing requirements is not likely to occur in an effective manner to protect the resources from disturbance.

Section 30210 and 30214 policies of the Coastal Act require maximum public use consistent with resource protection. In this case, the project site as well as the approximately 12-mile long coastal vicinity has been identified as critical habitat for the federally-threatened western snowy plover. As a result, the area requires special management consideration and protection. Use of the area even in non-breeding season may ultimately impact reproduction and survivorship.

Though the relocated parking lot, as conditioned, would not provide additional asphalt parking spaces per se, the overall proposed project would likely result in the intensification of use for a number of reasons. First, the project includes the addition of public amenities to serve the public, which may encourage another segment of the population to enjoy the features of the Park. Second, as proposed, equestrian use would be reintroduced to the Park. Additionally, without the proposed relocated parking lot, the available public access would be reduced over time. Even if the County rebuilds the parking lot to its original configuration after each episode, there would be at a minimum, a temporal loss of access opportunities.

The public access policies of the Coastal Act allow for the manner of public access to be managed, as appropriate, in cases where fragile natural resources are impacted. Further, Section 30240 requires that projects be carried out in a manner that does not significantly degrade habitat values.

Given the anticipated intensification of use by public visitors, the Commission finds it necessary to impose restrictions that would allow continued public access to the coast but also implement all feasible measures to minimize adverse impacts to sensitive habitat. Additional human, canine, and equestrian traffic has the potential to flush out and disturb plovers and other species, reducing their ability to rest and forage during the non-nesting season. Therefore, the Commission finds it necessary to eliminate the equestrian program and access to the beach by horses and dogs year-around. The parking lot and beach would remain available for passive recreational use year around. The Commission finds that access and use restrictions are necessary given the sensitivity of the resources in combination with the access constraints at the site. Therefore to ensure adequate protection of sensitive species known to occur in the project vicinity, the Commission requires **Special Condition Seven (7)** to eliminate horse trailer parking spaces from the project plans and prohibit dogs and horses from the Park.

As discussed in Section C, Public Recreation and Access, the project will maximize public access by maintaining existing beach parking in this vicinity and by providing public pedestrian access to the coast. The proposed project includes the placement of signage on the site to inform the public about the protected area and direct visitors to the designated accessway. The Commission finds that adequate noticing of the restricted area is essential to protect environmentally sensitive resources, such as the dune complex and snowy plover critical habitat, and to inform the public of appropriate use and access. Such signs are typically beneficial in nature by providing adequate notification prior to implementing enforcement actions and by discouraging uses incompatible with the environmentally sensitive habitat areas. However, in this case, final information regarding the location, size, design, and language to be used has not been submitted as part of this application. Therefore, in order to ensure that the proposed signage is consistent not only with habitat protection, but also with the continued provision of public access and recreational opportunities, **Special Condition Four (4)** requires that prior to the installation of signage, that the applicant submit, for the review and approval of the Executive Director, plans adequate to show the location, design, and language to be used for all signs to be installed.

C. PUBLIC RECREATION AND ACCESS

Coastal Act Section 30001.5 states in part:

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound

resources conservation principles and constitutionally protected rights of private property owners.

Coastal Act Sections 30210 through 30214 and 30221 specifically protect public access and recreation, as follows:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 (a): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects....

Section 30213: Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30214 (a): The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case....

Section 30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Likewise, Coastal Act Section 30240 (b) also requires that development not interfere with recreational areas and states:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Coastal Act Sections 30210, 30211, and 30212 mandate that maximum public access and recreational opportunities be provided to allow use of dry sand and rocky coastal beaches and that development not interfere with the public's right to access the sea, consistent with the need to protect public safety, private property and natural resources. All projects requiring a coastal development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act.

The nearest adjacent upcoast and downcoast public access is Oso Flaco Lake approximately 5 miles upcoast and Point Sal approximately 4 miles downcoast. In general, Santa Barbara County is limited in public access points to the north coast as the vast majority of the land is owned by three parties (U.S. Air Force, Bixby Ranch, and Hollister Ranch). The lack of connectivity and difficulty of traveling to these nearest sites makes Rancho Guadalupe Dunes Park an important regional access point for the public.

In terms of the project site, public access to the coast is currently provided via West Street in Guadalupe. Visitors must pass through the Park kiosk and travel approximately 2 miles along the access road to reach the existing public access parking lot. Lateral access is provided along the entire 1.25-mile coastline of Rancho Guadalupe Dunes Park property. This access is possible at no cost to the public from the hours of sunrise to sunset, though a three-dollar donation per vehicle is encouraged.

As discussed previously, the applicant proposes to demolish the original 50-space 27,314 sq. ft. public parking lot established in the 1960s and construct a 30,400 sq. ft. public parking lot approximately 160 feet further inland in the same general vicinity of the existing parking lot, requiring approximately 10,000 cu. yds of grading (5,000 cu. yds. cut, 5,000 cu. yds. fill). The proposed parking lot includes a total of 49 spaces: 39 traditional spaces, 4 handicapped, 5 horse-trailer, and 1 mobile exhibit space. The project includes an approximately 242 sq. ft. vault-type public restroom, five picnic tables, one bench, interpretive and instructional signage, and a trash enclosure. Additionally, a beach access ramp would be constructed to convey public access from the parking lot to the beach along a restricted corridor. The new facilities would provide ADA accessible facilities, and would not be eliminated with the implementation of Special Condition 7 required for protection of environmentally sensitive habitat (see Section B, Environmentally Sensitive Habitat Area).

Public access and recreation are high priority land uses under the Coastal Act. Section 30001.5 sets forth the goal of maximizing public access, consistent with sound resource conservation principles. Section 30221 establishes the priority of recreational land use at the project site's ocean front location. In addition, given the historical use of the site and its designation as a public beach park, public access and recreation must be considered a high priority land use for the project site. The project site currently provides public access and passive recreational opportunities, at no cost, for members of the public. Under the proposed project, such public access and recreational opportunities would remain, though, modified in an attempt to setback structures further inland to avoid periodic damage from high intensity storm waves. Relocating the parking lot landward will enhance public access to the beach park in the long run by minimizing future storm wave damage and by also reducing or eliminating the potential need for a seawall in the future to protect the park. Landward relocation to avoid the need for a seawall will also reduce future potential impacts on beach access caused by seawalls as a result of beach scour and changes to the shoreline profile.

The project represents a net benefit to the available public access and includes additional public amenities such as picnic tables and a restroom to encourage use by more segments of the community. The proposed project would facilitate improved public access at the site and would further priority land uses under the Coastal Act. As a result of the above findings, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30001.5, 30210 through 30214 and 30221.

D. COASTAL WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The Commission recognizes that new development has the potential to adversely impact coastal water quality and biological productivity through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. In this case, pollutants associated with the parking and restroom facilities may be introduced in to the runoff with potential adverse effects to coastal waters and/or human health.

Use of the subject site for public parking and restroom purposes may introduce potential sources of pollutants such as petroleum and household cleaners, as well as

accumulated pollutants from rooftops and other impervious surfaces. Pollutants that may be associated with runoff from the subject use include petroleum hydrocarbons such as oil and grease from vehicles; soap and dirt; synthetic organic chemicals including paint and household cleaners; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

As described above, the presence of motor vehicles and an impervious surface near the shoreline could therefore result in non-point source pollution. In order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (filter or treat) the amount of stormwater produced by all storms up to and including the 85th percentile, 24 hour storm event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Six (6)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act. Special Condition 6 also requires that all drainage elements be properly maintained; that parking lot areas, driveways, and other vehicular traffic areas on site shall be swept and/or vacuumed at regular intervals and at least once prior to October 15th of each year; any oily spots shall be cleaned with appropriate absorbent materials; all debris, trash and soiled absorbent materials shall be disposed of in a proper manner; and that all trash enclosures and receptacles shall be covered and/or sealed to prevent off-site transport of trash.

Furthermore, measures implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction. As proposed, the project requires approximately 10,000 cu. yds. of grading (5,000 cu. yds. cut, 5,000 cu. yds. fill). The Park would remain open during construction. Visitors would be directed to the existing parking lot. Once the new parking lot is complete, the County would removal all asphalt, wood, concrete, fencing, trash bins and signs associated with the existing parking lot. The area would be restored to open beach. The Commission notes that stockpiling of excavated soil and debris from the demolition of the existing parking facilities could result in erosion, sedimentation, or debris entering adjacent waters. To ensure that excess excavated material and debris is removed to an appropriate location and to protect the quality of coastal waters consistent with Coastal Act Sections 30230 and 30231, **Special Condition Three (3)** requires that all debris be removed from the site on a daily basis and that the applicant to provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Special Condition Three requires the applicant to assure that no construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30230 and 30231.

E. HAZARDS AND SHORELINE PROCESSES

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30253 of the Coastal Act states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. In addition, Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and

property. The project site is located on a beachfront parcel in unincorporated Santa Barbara County. Shoreline areas, such as the project site, are subject to flooding and erosion from storm waves.

The applicant proposes to demolish the original 27,314 sq. ft. public parking lot and construct a 30,400 sq. ft. public parking lot, requiring approximately 10,000 cu. yds of grading (5,000 cu. yds. cut, 5,000 cu. yds. fill). The proposed parking lot includes a total of 49 spaces: 39 traditional spaces, 4 handicapped, 5 horse-trailer, and 1 mobile exhibit space. The project includes an approximately 242 sq. ft. vault-type public restroom, five picnic tables, one bench, a trash enclosure, interpretive and instructional signage, native landscaping, dune creation area, habitat fencing, wind shelters, a beach access ramp to convey public access from the parking lot to the beach along a restricted corridor, and a trial equestrian program.

As discussed previously, the existing parking lot has previously been subject to substantial damage as the result of storm and flood occurrences. As such, evidence exists that the project site is subject to potential risks due to storm waves and surges, high surf conditions, erosion, and flooding.

The new parking lot will be located approximately 160 feet further inland in the same general vicinity of the existing parking lot, immediately south and east of the existing parking lot. The applicant's consulting coastal engineer recommends that any new parking lot be setback about 150 feet from the seaward edge of the existing parking lot in order to be outside of the zone of potential wave damage. The proposed parking lot is approximately 160 feet from the leading edge of the existing parking lot as shown on the project plans. This location is adequate to minimize risks from direct wave attack, wave runup, wave overtopping, and flooding. Additionally, the coastal engineer further recommends the elevation of the parking lot should be at or above +23 ft. mean sea level (MSL) in order to be above 99% of all possible wave runup based upon 100 year recurrence level oceanographic conditions. The parking lot is proposed to be at an elevation of +23 ft. MSL. However, the coastal engineer concluded that "under very rare and extreme oceanographic conditions the parking lot may be subject to wave runup. It would be prudent to have some form of management strategy to provide short-term protection for the lot." However, as discussed above, wave runup would be extremely rare and not be expected to cause any significant or lasting damage to the parking lot.

Section 30235 of the Coastal Act allows for the construction of a shoreline protective device only when necessary to protect existing development or to protect a coastal dependent use. Interference by shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on their own property. The second effect on access is through a progressive

loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. This affects public access again through a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. In addition, if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. Fourth, if not sited landward in a location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

Adverse effects to shoreline processes from shoreline protective devices are greater the more frequently that they are subject to wave action. As such, in past permit actions, the Commission has required that all new development on a beach be located as landward as possible in order to reduce adverse impacts to the sand supply and public access resulting from the development. In this case, a shoreline protective device is not proposed. Furthermore, the Commission finds that the revised location, based on the available coastal engineering reports, is adequate and will not have adverse impacts to the shoreline or create additional hazards.

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard as well as ensure stability and structural integrity. However, the proposed development is located on a beachfront lot in the County of Santa Barbara and will be subject to some inherent potential hazards. The Santa Barbara coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the 1998 severe El Nino winter storm season. The subject site is beachfront property susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. Extreme storm events have caused property damage resulting in public costs through emergency responses and low-interest, publicly-subsidized reconstruction loans.

Beachfront development in the area is subject to a high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The proposed development will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future. The Coastal Act recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with

the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, flooding, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by **Special Condition One (1)**, pursuant to a written agreement in a form and content acceptable to the Executive Director, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

Though, as stated above, no shoreline protective device is proposed as part of this project, the Commission notes that the construction of a shoreline protective device on the proposed project site would result in potential adverse effects to coastal processes, shoreline sand supply, the public's beach ownership interests, and public access. In addition, the Commission notes that Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. The Commission further notes that the approval of a shoreline protective device to protect the new development would not be required by Section 30235 of the Coastal Act. The construction of a shoreline protective device to protect the new development would conflict with Section 30253 of the Coastal Act which states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. In addition, the construction of a shoreline protective device to protect the new parking facilities would also conflict with Section 30251 of the Coastal Act, which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from such a device. Further, staff notes that many beach areas experience extreme erosion and scour during severe storm events, such as the El Nino storms. Given the uncertainty of future climate changes and weather events, it is not possible to completely predict what conditions the proposed project may be subject to in the future. To ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Condition One (1)** requires the applicant to provide written waiver, subject to the review and approval of the Executive Director, that would prohibit the applicant, or future landowners, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30235 and 30253.

F. LOCAL COASTAL PROGRAM

The proposed project area lies within the unincorporated area of County of Santa Barbara, but falls within the Commission's area of retained original permit jurisdiction as shown on the Point Sal Post LCP Certification Permit and Appeal Jurisdiction map. The Commission has certified the Local Coastal Program for the County of Santa Barbara (Land Use Plan and Implementation Ordinances) which contains policies for regulating development and protection of coastal resources, including the protection of environmentally sensitive habitats, recreational and visitor serving facilities, coastal hazards, and public access.

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

H. COASTAL ACT POLICY CONFLICT

Section 30007.5 of the Coastal Act provides the Commission with the ability to resolve conflicts between Coastal Act policies. This section provides that:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner that on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

In order for the Commission to utilize the conflict resolution provision of Section 30007.5, the Commission must first establish that there exists a substantial conflict between two statutory directives contained in Chapter 3 of the Coastal Act. The fact that a project is consistent with one policy of Chapter 3 and inconsistent with another policy

does not necessarily result in a conflict. Rather, the Commission must find that to deny the project based on the inconsistency with one policy will result in coastal zone effects that are inconsistent with another policy.

In this case, the proposed project is inconsistent with the ESHA protection policies of the Coastal Act because it is not a resource dependent use as identified by Section 30240(a). However, to deny the project based on this inconsistency with Section 30240(a) would result in significant adverse impacts to the availability of public access inconsistent with Coastal Act public access policies, specifically Section 30210.

If the Commission were to deny the project based on its nonconformity to the use provisions of Section 30240, future public access in this area would be significantly impaired. Public access would not be protected because the existing available parking area has eroded away and will continue to erode during significant storm wave events, effectively reducing the ability of the public to maximize access to the coast as required by Section 30210. Even if the County rebuilds the parking lot to its original configuration after each episode, there would be a temporary loss of access. Therefore, the no project alternative would have unavoidable significant adverse impacts on coastal access. Therefore, the Commission finds that the proposed project creates a conflict among Coastal Act policies.

After establishing a conflict among Coastal Act policies, Section 30007.5 mandates that the Commission resolve the conflict in a manner that is on balance most protective of coastal resources. In this case the proposed project would result in the reconstruction of an existing parking lot in an environmentally sensitive habitat area. The critical factors in the Commission's assessment of the conflict resolution are the following: as conditioned, the new parking lot will approximate the footprint of the original precoastal parking lot; the relocated project will not require removal of any vegetation, native or otherwise; the relocated parking lot will be approximately 160 inland (to the south and east of the existing lot) and will utilize the existing access road; the old parking lot will be removed and restored to the same functional habitat as the habitat on the proposed site; and the relocated site will preclude any future potential need for a seawall. Another factor to be considered is that the alternative of relocating the parking lot even further inland is not feasible because the entire dune complex within the park is ESHA. To locate the lot outside of ESHA would require placing it near the kiosk, a minimum of 2 miles from the ocean. Further, locating the parking lot landward would result in increased pedestrian access across the dunes and through sensitive habitat to reach the ocean which could result in greater impacts.

The Commission is requiring special conditions to limit equestrian and canine access; ensure implementation of construction mitigation, surveys, and signage. In the case of the proposed project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. Additionally, the existing parking lot location and other alternative locations were eliminated from further consideration because of the potential need for a seawall, which would have adverse impacts to resources as described in Section E, Hazards and Shoreline Processes. Accordingly,

this project has been conditioned such that the parking lot and other public amenities would not be permitted to have a seawall at any point in the future.

Given that the project site is an ESHA, it is necessary to minimize the impacts of the project to the maximum extent feasible. The Commission finds that there is an additional measure available that would minimize impacts to the surrounding ESHA while allowing continued public access. The Commission finds it necessary to require, pursuant to **Special Condition Seven (7)**, the applicant to revise the proposed project to reduce the total impervious surfaces of the proposed project, including concrete sidewalks, concrete pad, and asphalt parking area, to approximately 27,314 sq. ft, the size of the original existing parking lot. The location shall remain entirely within the boundaries of the existing proposed development footprint.

Although this is not a resource dependent use consistent with 30240(a), the proposed project, as conditioned, will allow for the continued use of the area for public access and in a manner that will not significantly disrupt habitat values. As discussed above, protecting public access and recreational opportunities is a high priority under the Coastal Act.

Therefore, as required under the Coastal Act, the proposed project as modified, is most protective of coastal resources and will not adversely effect or significantly degrade the sensitive habitats on the subject site. The Commission concludes that adverse impacts on public access and recreation that would result from denial of the project would be more significant than the impact on habitat that would result from approval, with conditions to minimize habitat impacts. Therefore, the Commission finds that approving the amendment is, on balance, most protective of coastal resources and is consistent with Section 30007.5 of the Coastal Act.